

June 14, 2005
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Serial No.: 10/045,321
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REMARKS/DISCUSSION OF ISSUES

Applicants and their counsel regret that the Examiner was unable to schedule a telephonic interview, but appreciate the Examiner's courtesy in attempting to schedule the same.

The Examiner objected to the drawings

The Examiner's objection to the drawings is traversed. Specifically, 37 C.F.R. §1.83(a) requires drawings "where necessary for the understanding of the subject matter sought to be patented". The Examiner's objection to the drawings is unsupportable, as one of ordinary skill in the art would not find the drawings of the subject matter of claims 2, 7, 8, 10, 15, 17, and 21 necessary to understand the subject matter sought to be patented. As the Examiner has not alleged that drawings of this subject matter is necessary to understand the subject matter sought to be claimed, the Examiner has not supported a prima facie case for an objection under this section of the CFR.

Additionally, however, Applicants note that the drawings do depict the subject matter claimed in claims 2, 7, 8, 10, 15, 17, and 21 in at least FIGS. 4, 5, and 6.

Withdrawal of the objection to the drawings is requested.

The Examiner objected to the specification

The Examiner objected to the specification. A replacement abstract is attached hereto, and Applicants request withdrawal of the objection to the specification.

The Examiner rejected claims 2-8, 10-15, and 17-21 under §112 ¶2

The §112 ¶2 rejection of claims 2-8, 10-15, and 17-21 is traversed.

With respect to claims 2, 4, 10, 12, 17 and 18, the claims are not indefinite as written. To satisfy the strictures of §112 ¶2, a claim need only set out and circumscribe the invention with a reasonable degree of precision and particularity. MPEP §2106. Since claims 2, 10, and 17 set out and circumscribe the invention with a reasonable degree of precision and particularity, the §112 ¶2 rejection must fall.

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Claim 5 depends directly from claim 4, claim 13 depends from claim 12, and claim 19 depends from claim 18. Claims 4, 12, and 18 each recites "a test system description" and therefore sufficient antecedent basis exists for claims 5, 13, and 19.

Similarly, claims 7, 15, and 21 also depend from claims 4, 12, and 19 respectively, and therefore include sufficient antecedent basis for the limitation "the test system description."

Claim 8 is a proper Markush style claim, and is therefore definite. The Examiner is gently referred to MPEP §2173.05(h). The Applicants further traverse the Examiner's definition of 'consisting' as compared to 'comprising' and do not consent to the Examiner's definition of those terms and note that the Examiner's interpretation is in contrast to the normal usage of those terms before the PTO.

Claims 3, 6, 11, 14 and 20 are therefore not rendered indefinite based on depending from indefinite claims.

Withdrawal of the §112 rejections to claims 2-8, 10-15, and 17-21 is requested.

Claims 1-21 were rejected as anticipated under §102(e) by Laviolette

The §102(e) rejection of claims 1-21 is traversed.

To warrant this §102(e) rejection of pending claims 1-21, Laviolette must show each and every limitation of claims 1-21 in as complete detail as is contained in claims 1-21. See, MPEP §2131. Laviolette does not disclose and reaches away from the claimed terms "contacting a selected test system, the selected test system associated with the selected test system description" as recited in claims 1, 9, and 16.

The Examiner's citation to column 3, lines 13-25 is misplaced, as that section only discusses selectability of test station configuration data. Laviolette does not, in its entirety, disclose contacting a selected test system that is associated with the selected test system description, and therefore this §102(e) rejection must fall.

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Furthermore, claim 4 requires "receiving at the management server, a test system description, the test system description associated with a functioning system in the distributed network environment." Contrary to the Examiner's assertions, Laviolette does not disclose that the test system description is associated with a functioning system in the distributed network environment. The Examiner's citation to column 6 lines 50-56 and 60-63 is misplaced.

Claim 7 requires, inter alia, "determining at least one characteristic of the functioning system at the management agent" which is not disclosed by Laviolette. The Examiner's citation to column 6, lines 48-56 is misplaced. Laviolette does not disclose anything relating to functioning systems – only monitoring a host system for software and hardware configuration information and reporting back to the test center server.

Further, claims 2-8, 10-15, and 17-21 depend directly or indirectly from claims 1, 9, or 16 respectively, and are therefore patentable over the prior art for at least the same reasons.

Withdrawal of the rejection of claims 1-21 under U.S.C. §102(e) as being anticipated by Laviolette is therefore respectfully requested.

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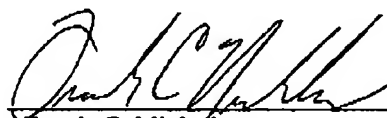
CONCLUSION

The Applicant respectfully submits that claims 1-21 as listed herein fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully Submitted,
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